

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MOSCOW PRIORITY

INFO AMEMBASSY BUDAPEST

C O N F I D E N T I A L STATE 161044

E.O. 11652: GDS

TAGS: PFOR, CPAS, CASC (KUDIRKA, SIMAS)

SUBJECT: CONSULAR ACCESS TO KUDIRKA

REF: MOSCOW 11360

1. DEPARTMENT APPRECIATES EMBASSY'S SUGGESTION REGARDING
SUBMISSION TO SOVIET AUTHORITIES OF DETAILED CITIZENSHIP
STUDY OF KUDIRKA CASE AND CERTIFIED COPIES OF APPLICABLE
LAWS.

2. DEPARTMENT DOES NOT, HOWEVER, WISH UNDULY TO DELAY
OUR PRESSING MFA FOR RESPONSE ON CONSULAR ACCESS. ON JULY
18 MFA WAS GIVEN ALL INFORMATION IT REQUIRED FROM UNITED
STATES GOVERNMENT TO ARRANGE CONSULAR ACCESS IN ACCORDANCE
WITH ARTICLE 12 OF CONSULAR CONVENTION. PREPARATION AND
POUCHING OF DOCUMENTATION REQUESTED BY EMBASSY WOULD TAKE
SEVERAL DAYS AT MINIMUM. IN ADDITION, SUBMISSION OF
PACKAGE TO MFA WOULD INVITE SOVIETS TO INTERPRET US LAWS
AND THEIR APPLICABILITY TO KUDIRKA CASE PRIOR TO MAKING
DECISION ON ACCESS. IT WOULD ALSO TEND TO SET UNDESIRABLE
PRECEDENT. WE DO NOT WISH TO BE DRAWN INTO ARGUMENTS WITH
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SOVIET SIDE OVER WHO IS AND WHO IS NOT US CITIZEN, PART-

ICULARLY WHEN SENSITIVE ISSUE OF CONSULAR ACCESS IS INVOLVED.

3. WHILE PARAGRAPH TWO OF PROTOCOL TO CONSULAR CONVENTION DOES NOT APPLY DIRECTLY TO CIRCUMSTANCES OF KUDIRKA CASE,

IT DOES INDICATE THAT PHRASE QUOTE WITHOUT DELAY UNQUOTE IN PARAGRAPH THREE OF ARTICLE 12 REFERS TO TIME FRAME OF TWO TO FOUR DAYS. ON JULY 25 FOUR FULL WORKING DAYS WILL HAVE ELAPSED SINCE EMBASSY'S JULY 18 REQUEST FOR ACCESS. IF REPLY IS NOT RECEIVED BY JULY 25, EMBASSY SHOULD MAKE FOLLOW-UP DEMARCHE ON JULY 26 TO REQUEST THAT ACCESS BE ARRANGED IMMEDIATELY. EMBASSY SHOULD STRESS THAT CONSULAR CONVENTION EXPRESSLY PROVIDES FOR ACCESS QUOTE WITHOUT DELAY UNQUOTE AND THAT IN PARTICULAR CIRCUMSTANCES OF KUDIRKA CASE, WHERE KUDIRKA'S WHEREABOUTS AND SITUATION ARE WELL KNOWN TO SOVIET SIDE, WE CANNOT UNDERSTAND DELAY BEYOND THE FOUR DAYS SPECIFIED IN PARAGRAPH TWO OF THE CONVENTION'S PROTOCOL.

4. IF SOVIETS SEEM GENUINELY PERPLEXED OVER OUR FINDING THAT KUDIRKA IS US CITIZEN, EMBASSY MAY OF COURSE EXPLAIN RELEVANT PROVISIONS OF US LAW. FOCUS OF OUR REPRESENTATIONS SHOULD NOT, HOWEVER, BE ALLOWED TO SHIFT FROM SOVIET OBLIGATION TO PROVIDE PROMPT CONSULAR ACCESS AND US SOVEREIGN RIGHT TO DETERMINE QUESTIONS OF US CITIZENSHIP.

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